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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,443	11/12/2003	Michael R. Oldenburg	14097.01	8005

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EXAMINER

PICKARD, ALISON K

ART UNIT	PAPER NUMBER
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3673

DATE MAILED: 10/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/706,443

Applicant(s)

OLDENBURG, MICHAEL R.

Examiner

Alison K. Pickard

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-65 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 2,3,10,47,50-55,57 and 61 is/are rejected.
- 7) ☒ Claim(s) 4-9,11-46,48,49,56,58,59 and 62-65 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

1. Upon further consideration, the finality of the last action has been withdrawn. A new action is set forth below.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 47 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 47, line 2, "the housing portion" lacks antecedent basis. Which one?

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 2, 50-55, 57, and 61 are rejected under 35 U.S.C. 102(b) as being anticipated by Heinzen (5,201,529).

Heinzen discloses a seal comprising a sleeve coaxially around the shaft having flange sleeve portion (near line 212 or 213) extending radially outward, an outward sleeve portion (elastomer portion e.g. 23 with parallel surface 51) extending in one direction from the flange sleeve to an axially outermost point, and an inward sleeve portion 211 parallel to axis and extending in another direction from the flange sleeve to an axially innermost point. The seal

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comprises an outer housing (e.g. line 16 in Figure 1) that surrounds the flange portion and part of the inward and outward sleeve portions. The outer housing comprises a flange housing portion (e.g. 16 in Fig. 3) extending radially inward and positioned axially inward relative to the flange sleeve portion, a parallel housing portion (e.g. 13 in Fig. 3), and a faceplate portion (e.g. 30 in Fig. 3) extending radially inward from the outer housing and position axially outward relative to the flange sleeve portion. The seal comprises an elastomeric lip 12 with a garter spring that abuts the inward sleeve portion, a second lip, and a third lip.

6. Claims 2, 3, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Rhoads (3,114,558).

Rhoads discloses a seal comprising a sleeve coaxially around the shaft having flange sleeve portion (near line 76) extending radially outward, an outward sleeve portion (near line 71) extending in one direction from the flange sleeve to an axially outermost point, and an inward sleeve portion (near line 73) parallel to axis and extending in another direction from the flange sleeve to an axially innermost point. The seal comprises an outer housing (either of axial portions near line 68) that surrounds the flange portion and part of the inward and outward sleeve portions. The outer housing comprises a flange housing portion (64) extending radially inward and positioned axially inward relative to the flange sleeve portion, a parallel housing portion (other of axial portions near line 68), a faceplate portion (62 or 63) extending radially inward from the outer housing and position axially outward relative to the flange sleeve portion, and a second flange housing portion (small radial portion of folded portion at the top of element 62) extending radially outward. An elastomeric lip 72 extends between the faceplate (62) and the outward sleeve 71.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 47 is rejected under 35 U.S.C. 103(a) as being unpatentable over Heinzen.

Heinzen discloses an elastomeric bumper between the housing flange and flange sleeve

221. However, the bumper is not attached to the housing flange to abut the sleeve flange.

Reversing the position of the bumper is not considered inventive. See *In re Gazda*, 104 USPQ 400 (CCPA 1955). Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to form the seal of Heinzen with the bumper on the housing flange to abut the sleeve flange.

Allowable Subject Matter

9. Claims 4-9, 11-46, 48, 49, 56, 58-60, and 62-65 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

10. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Duckwall 5,522,600 would also read on the same claims as Heinzen in a similar manner (i.e. in that the elastomeric portion 125 can be considered an outer sleeve portion).

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alison K. Pickard whose telephone number is 571-272-7062.

The examiner can normally be reached on M-F (10-7:30), with alternate Friday's off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on 571-272-7049. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Alison K. Pickard
Primary Examiner
Art Unit 3673

AP